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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92054536
Party	Defendant All Market, Inc.
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Submission	Answer
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Date	11/29/2011
Attachments	Answer to Petition for Cancellation.pdf (8 pages)(301712 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Registration No. 3553239
Trademark: VITA COCO
Registered on: December 30, 2008

LATIN BRANDS CORP.)	
)	
Petitioner,)	
)	
v.)	Cancellation No.: 92054536
)	
ALL MARKET INC.)	
)	
Registrant.)	
)	
)	

ANSWER TO PETITION FOR CANCELLATION

Registrant, All Market Inc. (“All Market” or “Registrant”), respectfully submits its Answer to the Petition for Cancellation (the “Petition”) filed by Latin Brands Corp. (“Latin Brands” or “Petitioner”) in the above-referenced matter. All Market denies any averments not expressly admitted and responds to the Petition as follows:

In response to the opening un-numbered paragraph of the Petition, All Market admits that Latin Brands is a corporation duly organized under the laws of the Commonwealth of Puerto Rico, having a principal place of business at #9 Claudia Street, Amelia Industrial Park, Guaynabo, Puerto Rico, 00968. All Market denies that Latin Brands is or will continue to be damaged by U.S. Registration No. 3,553,239 for VITA COCO (“the Registration”).

In response to the numbered paragraphs of the Petition, All Market states as follows:

1(a). All Market is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 1(a) of the Petition.

1(b). All Market is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 1(b) of the Petition.

1(c). All Market is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 1(c) of the Petition.

1(d). All Market is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 1(d) of the Petition.

2. All Market is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 2 of the Petition.

3. Admitted.

4. All Market admits that the mark VITA COCO was registered on December 30, 2008 as U.S. Registration No. 3,553,239, and that such registration covers “coconut water-based beverages.” All Market further admits that such mark has been used in commerce in the United States since at least as early as August 28, 2004. All Market denies the remaining allegations set forth in paragraph 4 of the Petition.

5. All Market is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 5 of the Petition.

6. All Market is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 6 of the Petition.

7. All Market is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 7 of the Petition.

8. All Market is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 8 of the Petition.

9. Denied.

10. Denied.

11. Denied.

12. Denied.

13. All Market admits only that the cited authority includes the language quoted in paragraph 13 of the Petition.

14. All Market admits only that the cited authority includes the language quoted in paragraph 14 of the Petition.

15. All Market admits only that the cited authority includes the language quoted in paragraph 15 of the Petition.

16. All Market admits only that the cited authority includes the language quoted in paragraph 16 of the Petition.

17. All Market admits only that the cited authority includes the language quoted in paragraph 17 of the Petition.

18. All Market admits only that the cited authorities include the language quoted in paragraph 18 of the Petition.

19. All Market is without knowledge or information sufficient to form a belief as to the first sentence set forth in paragraph 19 of the Petition. All Market admits that the mark VITA COCO has been used in commerce in the United States since at least as early as August 28, 2004.

20. Denied.

21. All Market admits only that the cited authorities include the quoted language.

22. All Market admits only that the cited authorities include the quoted language.

23. Denied.

24. All Market admits only that the cited authority includes the quoted language. All Market denies that the mark VITARROZ is a fanciful coined term, and further denies that such mark is inherently distinctive.

25. All Market admits only that the cited authority includes the quoted language.

26. All Market admits only that the cited authority includes the quoted language.

27. All Market is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 27 of the Petition.

28. All Market is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 28 of the Petition.

29. All Market is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 29 of the Petition.

30. All Market is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 30 of the Petition.

31. All Market admits only that the cited authorities include the quoted language.

32. Denied.

33. Denied.

34. Denied.
35. All Market admits only that the cited authority includes the quoted language.
36. Denied.
37. Denied.
38. Denied.
39. Denied.
40. Denied.
41. Denied.
42. All Market admits only that the cited authority includes the quoted language.
43. All Market admits only that the cited authority includes the quoted language.
44. All Market admits only that the cited authorities include the quoted language.
45. Denied.
46. Denied.
47. All Market admits only that the cited authority includes the quoted language.
48. Denied.
49. Denied.
50. Denied.

51. Denied.

52. Denied.

In response to the un-numbered paragraphs set forth in the Conclusion, All Market denies each and every allegation set forth therein.

In response to the Prayer for Relief, All Market denies that grounds exists for cancellation of the Registration. All Market further denies that Latin Brands is entitled to any form of relief.

AFFIRMATIVE DEFENSES

First Affirmative Defense

The Petition for Cancellation fails to state a claim upon which relief can be granted.

Second Affirmative Defense

The Petition for Cancellation is barred by the equitable doctrine of laches.

Third Affirmative Defense

The Petition for Cancellation is barred by the equitable doctrine of acquiescence.

Fourth Affirmative Defense

The Petition for Cancellation is barred by the equitable doctrine of waiver.

Fifth Affirmative Defense

The Petition for Cancellation is barred by the equitable doctrine of estoppel.

Sixth Affirmative Defense

Latin Brands has brought this Petition to Cancel for improper purposes and with unclean hands.

Seventh Affirmative Defense


All Market reserves the right to assert any additional affirmative defenses as may arise during the course of additional investigation and discovery.

WHEREFORE, All Market prays that this Petition be denied and dismissed with prejudice, with Latin Brands taking nothing for this action.

Respectfully submitted,

ALL MARKET INC.

Dated: November 29, 2011


By: 
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Attorney for Registrant

CERTIFICATE OF SERVICE

I hereby certify that on this date, November 29, 2011, a copy of the foregoing ANSWER TO PETITION FOR CANCELLATION was served upon the Petitioner, by e-mail and by United States Postal Service as First Class Mail, postage prepaid, to Petitioners' current identified counsel, as set forth below:

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R. Glenn Schroeder